

AN ORDINANCE PUBLIC SAFETY-LEGAL ADMINISTRATION

AN ORDINANCE TO AMEND PART II CHAPTER 43-1 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA ENTITLED COMMERCIAL SOLICITATION SO AS TO IMPROVE AND STREAMLINE THE ENFORCEMENT OF CHAPTER 43; TO MODIFY THE PENALTIES FOR VIOLATIONS; TO WAIVE CONFLICTING ORDINANCES; AN FOR OTHER PURPOSES;

WHEREAS, the City of Atlanta created Chapter 43 of the Atlanta City Code of Ordinances in 2005 as a comprehensive measure to place restrictions on commercial solicitation and provide outreach services to those in need; and

WHEREAS, the City of Atlanta is sensitive to the plight of individuals who commercially solicit and has been actively engaged in providing support services to address homelessness in Atlanta; and

WHEREAS, Section 43 has not been enforced since its adoption due to resource challenges and cumbersome procedures regarding onsite evaluations of violators and the issuance of citations based upon previous violations by a violator; and

WHEREAS, the City of Atlanta wants to protect and enhance its businesses and neighborhoods and keep them free from disturbance, and negative economic impact; and

WHEREAS, enforcement procedures in Chapter 43 can be improved and streamlined in order to provide for full and fair enforcement of the prohibitions against commercial solicitation; and

WHEREAS, outreach and evaluations procedures can be improved and streamlined in order to provide services to individuals in need of support services,

NOW THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY AMENDS CHAPTER 43, SECTION 43-1 COMMERCIAL SOLICITATION TO READ AS FOLLOWS:

SECTION 1

Sect. 43-1 Commercial Solicitation

(1) Definitions

- a. "Commercial Solicitation" or "to commercially solicit" is any request made in person on a street, sidewalk, or public place, without a permit, asking for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other

indication that one is seeking donations without addressing the request to any specific person.

- b. "Outreach Team Evaluator" shall mean an individual counselor or group of counselors authorized and designated by the Mayor to provide access to Community Outreach Services for individuals with mental health diagnoses and/or drug and alcohol complications, or other medical or social services needs. The Outreach Team Evaluator shall make recommendations that an individual receive Community Outreach Services, and may take reasonable steps toward directing the person to the appropriate community outreach program service provider, including but not limited to offering transportation to such provider. An Outreach Team Evaluator shall not have the authority to compel an individual to receive Community Outreach Services.
- c. "Community Outreach Services" means a public or private services provider that offers residential and/or rehabilitative medical or social services assistance, including but not limited to mental health treatment drug or alcohol rehabilitation, or homeless assistance services for individuals in need thereof. The Mayor shall determine what service providers constitute an eligible community Outreach Service provider for purposes of this section.
- d. "Evaluation" means the written assessment of an individual's mental health, the presence of drug and alcohol complications, or other medical or social service needs by visual analysis and/or by verbal communication with the individual. Evaluation may be performed by either an outreach Team Evaluator or a law enforcement officer. An evaluation shall not serve to compel an individual to receive Community Outreach Services nor shall an evaluation serve to increase the penalty assessed as provided for in Sec 43-6
- e. "The Tourist Triangle" means the area defined by the boundaries of the following named streets, including both sides of each named street and each corner of intersecting named streets:

Martin Luther King Jr. Drive SW from Courtland Street SE to Peachtree Street SW; Peachtree Street SW from Martin Luther King Jr. Drive SE to Alabama Street SW; Alabama Street SW from Peachtree Street SW to Forsyth Street SW; Forsyth Street SW from Alabama Street SW to Marietta Street NW; Marietta Street NW from Forsyth Street SW to Jones Avenue NW (Ivan Allen Boulevard NW); Jones Avenue NW (Ivan Allen Boulevard NW) from Jones Avenue NW to Ralph McGill Boulevard NE; Ralph McGill Boulevard NE to Peachtree Street NE; Peachtree Street NE from Ralph McGill Boulevard NE to Peachtree Center Avenue NE; Peachtree Center Avenue NE from Peachtree Street NE to Baker Street NE; Baker Street NE from Peachtree Center Avenue NE to Piedmont Avenue NE; Piedmont Avenue NE from Baker Street NE to Edgewood Avenue SE; Edgewood Avenue SE from Piedmont Avenue NE to Courtland Street SE; Courtland Street SE from Edgewood Avenue SE to Martin Luther King Jr. Drive SW.

- f. The “King Center Tourist Area” means the area defined by the boundaries of the following named streets, including both sides of each named street and each corner of intersecting named streets: Irwin Street, NE from Jackson Street, NE to Boulevard NE; Boulevard NE from Irwin Street, NE to Auburn Avenue, NE; Auburn Avenue, NE from Boulevard NE to Jackson Street, NE; Jackson Street, NE from Auburn Avenue, NE to Irwin Street, NE.

(2) **Commercial Solicitation In Certain Areas.** It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the City Of Atlanta, unless otherwise provided for in Sec. 43- 2(1)(c):

- a. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitation are not welcome on the property;
- b. Within 15 feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet)
- c. Within 15 feet of an automatic teller machine (ATM), provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility
- d. Within 15 feet of any parking lot pay box;
- e. Within 15 feet of any pay telephone, provided that when a pay telephone located within a telephone booth or facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- f. In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;
- g. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
- h. In a parking lot or garage owned or operated by the City of Atlanta, including entryways or exits and pay stations connected therewith;
- i. Within 15 feet of any valid vendor location, as defined in the Atlanta City Code, chapter 30, article XXIII, division 1, section 30-1401 and article XXIV, division 1, section 30-1461;
- j. Within the “Tourist Triangle” area as defined in Sec.43-1(1)(d).

k. Within the “King Center Tourist Area” area as defined in Sec. 43-1(1)(f)

(3) **Nighttime Commercial Solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

(4) **Aggressive Solicitation.** It Shall be unlawful for any person to commercially solicit in any of the following manners be amended to read as follows:

a. By blocking the path of the person solicited; or

b. By following or walking alongside the person solicited; or

c. By using profane or abusive language, either during the solicitation or following refusal; or

d. By accosting or forcing oneself upon the company of another, as is defined in Section 106-85; or

e. By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat

f. **By touching the person solicited.**

(5) **False or Misleading Solicitations.** It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to the following:

a. Stating that the solicitor is from out of town and stranded when such is not true;

b. Stating or suggesting falsely that the solicitor is either a present or former member of the armed services indicated;

c. Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;

d. Use of any makeup or device to simulate a deformity; or

e. Stating the solicitor is homeless, when he or she is not.

(6) **Penalties.** Penalties for violations of this section shall be as follows:

- a. ~~First Violation: Upon a first violation, the person accused of violating this section shall be issued a warning ticket, which shall not include a summons to appear before a court of proper jurisdiction or shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case, and the law enforcement officer issuing the citation shall request an Outreach Team Evaluator to make an onsite evaluation of the violator.~~
- ~~1. The Outreach Team Evaluator shall make an evaluation of the person issued a warning ticket or citation under this section, wherein such evaluation shall be forwarded to the prosecutor prosecuting the violation.~~
 - ~~2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every person issued a citation under this section.~~
 - ~~3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach Team Evaluator and the law enforcement officer issuing the citation shall include an evaluation.~~
- b. ~~Second Violation: Upon a second violation, the person accused of violating this section shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case, and the law enforcement officer issuing the citation shall request an Outreach Team Evaluator to make an onsite evaluation of the violator.~~
- ~~1. The Outreach Team Evaluator shall make a written evaluation of the person issued a citation under this section, wherein such written evaluation shall be forwarded to the accused and to the prosecutor prosecuting this violation.~~
 - ~~2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every Person issued a citation under this section.~~
 - ~~3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach Team Evaluator and the law enforcement officer shall include an evaluation on the citation.~~
- i. ~~Upon conviction for a second violation, the violator may be sentence to perform up to thirty (30) days of community service.~~
- ~~1. The prosecutor shall have discretion to consider the Outreach Team Evaluator's report or the law enforcement officer's evaluation in determining whether to maintain charges against a violator, and the court may consider this report in determining the appropriate sentence.~~

- ~~2. The court should consider completion of a Community Outreach Services program in determining the appropriate sentence.~~

~~c. Third Violation and Subsequent Violations:~~

- ~~i. Upon a third violation, and subsequent violation, the person accused of violating this section shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case, and the law enforcement officer issuing the citation shall request an Outreach Team Evaluator to make an onsite evaluation of the violator.~~

- ~~1. The Outreach Team Evaluator shall make a written evaluation of the person issued a citation under this section, wherein such written~~

- ~~2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every person issued a citation under this section.~~

- ~~3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach Team Evaluator and the law enforcement officer shall include an evaluation on the citation.~~

Upon conviction, the violator may be sentenced to one or more of the following: direction to a Community Outreach Services program; the performance of up to thirty (30) days community service; a monetary fine not to exceed \$1000; and/or imprisonment not to exceed 180 days except that upon conviction of section (4) (f) involving the touching of the person solicited, the violator shall be sentenced to imprisonment not to exceed 180 days.

1. For any violation of this section the law enforcement officer may request an Outreach Team Evaluation of the violator to be forwarded to the prosecutor prosecuting the violation.

2. The prosecutor shall have discretion to consider the Outreach Team Evaluator's report or the law enforcement officer's evaluation in determining whether to maintain charges against a violator, and the court may consider this report in determining the appropriate sentence.

- ~~3. The court should consider completion of a Community Outreach Services program in determining the appropriate sentence.~~

- ~~d. To the extent permitted by state law, information regarding citations issued pursuant to this ordinance shall only be kept in City of Atlanta files and databases.~~

- e. ~~To the extent permitted by state law, records related to persons to whom a citation has been issued pursuant to this ordinance shall be automatically expunged one year after the issuance of said citation.~~

SECTION 2

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3

This ordinance shall go into effect immediately upon the Mayor's approval